



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

REGION 5

77 WEST JACKSON BOULEVARD  
CHICAGO IL 60604-3590

1995

REPLY TO THE ATTENTION OF

**MEMORANDUM**

**SUBJECT:** Regional Policy for Residential Connections to Existing Public Utilities under CERCLA Removal Authority.

**FROM:** Richard Karl, Chief *R. Karl*  
Emergency and Enforcement Response Branch

**THRU:** William E. Muno, Director *Wm. E. Muno*  
Waste Management Division

**TO:** On-Scene Coordinators, Remedial Project Managers,  
Supervisors and Managers in Office of Superfund

**BACKGROUND/PURPOSE**

The Region V removal program does not have a formal written policy for making decisions regarding the use of Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA) funds for the connection of residences to existing municipal water supply systems. Since 1985, the removal program has completed a number of these types of projects and fortunately they have all been under the direction of the same On-Scene Coordinator (OSC). As a result, the implementation of these actions over the years has been consistent from project to project, and great pains have been taken to assure fairness to the affected residents regardless of geographic area or economic status. The following policy will provide the Regional OSCs and Remedial Project Managers (RPMs) with guidance for future alternate water supply sites.

**POLICY**

This policy is intended to encompass CERCLA removal actions, both time-critical and non time-critical, at or adjacent to a site where residential wells are severely impacted and where a municipal water supply is available.

**SITE REQUIREMENTS FOR USE OF REMOVAL AUTHORITY**

The groundwater at the site must be contaminated to a point in excess of a Removal Action Level (RAL). Refer to OSWER Directive 9360.1-01 for information on a RAL. The contamination must be present in at least one receptor well, or a well used for

human consumption, not an irrigation well, monitoring well or similar. As a result of the high costs associated with construction projects of this type, the accuracy of analytical data is paramount. Therefore, any decision in which federal dollars are proposed to be spent **should be based on federal analytical data.** Data supplied by other sources (State or Local), should be verified, to confirm the presence of contamination above RALs. If this confirmation sampling warrants declaring an emergency (RALs exceeded), the interim use of bottled water or filter technology may be warranted. **In no case is a removal action to be initiated with contamination levels lower than an RAL without the Division Director and Headquarters approval.**

Contact should be made with the local City government early in the process to establish a dialogue with the City officials, brief them on the project and Superfund in general, and obtain their concurrence on the project. Before any engineering and design costs are incurred, the OSC **should have a written statement from the City agreeing to the project and its conditions (see following section).** Whereas certain specific details can be worked out at a later date, agreement in principle at this stage is paramount to a successful project. This could involve briefing a Mayor, a City Council, a County Commission, City and County Attorneys, and/or local State Representatives. If, for any reason, the City refuses to allow EPA to connect to their water supply system, ORC should be consulted before proceeding.

#### **CONDITIONS FOR PROVIDING A SERVICE CONNECTION TO A RESIDENCE**

1. A residence can include mobile homes as well as apartment buildings.
2. The residence must be occupied or at least be in a condition to be occupied.
3. The residence must have a well which provides interior service.
4. The residence must be located in the contaminated plume or in the projected immediate path of the plume. The residential well itself does not actually have to be contaminated, if the "potential" is present to become contaminated based on "good science".
5. The property owner must agree to provide access to his property for construction purposes. This access can be obtained via several written forms, including: agreements with the local water utility, with the City requiring annexation, or with the State requiring the abandonment of the individual wells. (see annexation and well abandonment)



### IMPLEMENTATION STANDARDS

1. The connection can only be provided to the primary residence, and not to additional structures such as boat houses, guest houses, etc.
2. The connection can be only be provided to residences and small commercial businesses. Restaurants and bars are excluded, as are large industries. In cases where smaller commercial establishments have a need for water for other than human consumption, care must be taken to only provide the portion of the service that will protect the workers health and safety (drinking water and shower water). This would exclude process water, cooling water, etc.
3. The monthly water bill is the responsibility of the homeowner, as are any applicable deposits required by the City.
4. Permits typically required by a City or a County cannot result in delays to the project, as set forth in (CERCLA) 42 U.S.C. 9621 (e) (1). All, or as many as practical of the substantive requirements as stated in the permit will be carried out, provided they do not result in delays to the project. This includes permits commonly required by railroads and the Department of Transportation, as well as construction review and concurrence required by the State.
5. The OSC/RPM should attempt to have any City or County fees waived. If not waived, such fees could prove to be substantial, especially in regards to a main assessment fee, or fees levied to cover the cost of a previously existing water tower and/or well field. These fees incorporate pre-existing conditions and can never be paid for. Permit fees are usually much smaller and although an attempt should be made to have them waived, a failure to have them negated should not be cause for delay of the project. Any decision to pay a particular fee should be made after concurrence by ORC.
6. The homeowner is responsible for costs associated with any upgrading of his home's internal plumbing system necessary to accept the typically higher pressure of a municipal system.
7. Landscaping issues during the construction must be handled consistently. The contractor will take every reasonable precaution to protect the homeowner's landscaping. However, if shrubs, flowers, trees or other vegetation does not survive adjacent excavations, any replacement will not be at the expense of the government. If the OSC is assured that the contractor took reasonable care in protecting the above,

any replacement will be at the expense of the homeowner. If the contractor was judged to be negligent, the replacement will be at his expense. All grass replacement will be via seeding not sodding.

8. Any damage judged by the OSC/RPM to be incidental (cracked driveways, sidewalks etc.) to the project, will be fixed at the expense of the project.
9. Residents can initially decline connection to the municipal water supply to be provided at U.S. EPA expense, and change their mind at a later date prior to the actual project demobilization. Any extra expenses incurred as a result of their initial refusal will be borne by the residents.
10. All engineering and design work is subject to the City Water Department approval, and should be done using their specifications. All State and City plumbing codes will be adhered to in regards to materials, and licensing specifications. Any other City/County policies such as road repair requirements, easements, zoning variances, property acquisition for pumping stations or filtration systems, are open to negotiation by the OSC/RPM, particularly where costs and time can be saved.
11. Any "oversizing" required by the City for future expansion is not considered a part of the project and arrangements must be made to clearly separate any costs incurred. The same would hold true with any "extras" asked for by the homeowner.
12. When dealing with rental properties, the OSC/RPM must deal with the legal owner, not the renter.
13. The OSC/RPM will take into account any City request to provide adequate flow and pressure for fire protection purposes when designing the alternate water supply system. This might require an oversize situation or adding a pumping station or other "hardware". For purposes of fire protection the oversizing of water mains is an appropriate cost, as are appliances related to it.

#### **OTHER ISSUES**

##### **OSC/RPM PRESENCE ON-SITE**

The OSC/RPM is strongly encouraged to treat a project of this type as a typical removal project. OSC/RPM presence on-site should be commensurate with the project status or level of public concern. A full-time presence may be required during the project start-up or when the public has expressed interest in the work being performed. It is envisioned that, in most cases, the level



of OSC/RPM presence can be reduced as the project moves forward (e.g. weekly site visits).

On a large scale project of this sort literally thousands of people are directly affected (e.g. S.E. Rockford, IL NPL Site), and a continued Federal presence on site is critical. Many issues and concerns are shared by the residents in and around the project area. Many residents have legitimate questions or concerns, and when a driveway is cracked or other property is damaged, they need to be able to voice these concerns. A Federal presence on site will prevent many phone calls to local political officials and management in Region V. The OSC/RPM construction office (command post), should be in a central location to the project and its location and work hours should be advertized within the community.

In a typical construction project, circumstances can occur that can result in field modifications and change orders ranging from a few dollars to tens of thousands of dollars. OSC or RPM approval, and subsequent oversight of these modifications as they occur, will result in a smoother invoicing format and significant cost savings.

The Emergency Response Cleanup Services (ERCS) contractor has typically provided the engineering and design support both prior to construction and after construction has begun. At that time, an engineer/inspector is equivalent to the Response Manager, and is present on site during construction. Typically a 1900-55 form is completed by a Project Control Specialist (PCS) on a weekly basis. The PCS is not present on site.

A Technical Assistance Team (TAT) member is generally not needed at this type of project once construction has begun. Map making and certain "leg work" prior to the engineering and design phase may be expedited by using the TAT.

#### **ANNEXATION**

This issue is more volatile and raises as much, if not more, controversy than does the actual contamination in the residential wells. Municipalities typically do not supply city services to county residents. Most, if not all municipalities, require the resident requesting a connection to provide written agreement to be annexed into the City, when and if City property ever becomes contiguous with their property.

In past projects, Region V has always allowed the City to place this requirement on the residents being connected. The one exemption was the Marvin Prochnow Landfill Site (Cedarburg, WI.), where the City was a Potentially Responsible Party (PRP).

### **WELL ABANDONMENT**

The other issue that will typically raise a public outcry is the City and/or State requirement that the wells of the "connected" residents be abandoned. Abandonment eliminates the City's concern for possible cross connections and subsequent contamination of the City water supply. Abandonment also satisfies the State's concern for eliminating points of access into the contamination plume. Residents who insist on keeping their existing well for irrigation purposes are not to be connected to the water supply.

If the resident has more than one well, only that well which supplies their household is to be plugged.

Region V has always honored the City or State request concerning well abandonment.

### **SUMMARY**

This guidance has tried to address most of the situations and problems that have been encountered in past projects. However, political climate, local ordinances and State law vary considerably and different and unusual situations will occur. The OSC/RPM will have to be prepared to deal with them as they arise.

If there are any questions concerning the interpretation or implementation of this guidance, please contact Ken Theisen, OSC, at 6-1959.

### **EFFECTIVE DATE**

This guidance becomes effective on the date of issuance. This guidance does not create any legal right or obligation by any party. Region V may act at variance with this guidance based upon site-specific circumstances. This guidance may be subsequently revised without any prior public notice.